# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/602,896 | 06/24/2003 | Andrew Mahoney | 58756 (47904) | 2195 |

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| 21874 | 7590 | 05/09/2006 | GART, MATTHEW S |

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| ART UNIT | PAPER NUMBER |
|---|---|
| 3625 | |

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

**Office Action Summary**

| Examiner | Art Unit |
|---|---|
| Matthew S. Gart | 3625 |

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>07 March 2006</u>.

2a)☒ This action is **FINAL**.        2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-25</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-25</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

## DETAILED ACTION

### *Prosecution History Summary*

- Claims 1-25 are pending in the instant application.

- Claims 1, 3 and 19 were amended per the applicant's response filed 3/7/2006.

### *Response to Arguments*

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

The Applicant argues that Boyden does not disclose the step of inputting vehicle information and letting the system server determine an adjusted floor price for the vehicle based upon the vehicle information.

The Examiner notes, Boyden discloses a seller work-list web page **200a** displayed at a seller system. The work-list page **200a** is sent from the auction server system **102** in response to a request from a seller system to add a vehicle to the auction. The work-list page **200a** can contain an input section **202**, which includes a link to create a record for a new vehicle to be added to the list **201** (Boyden: paragraph 0030). FIG. 2B illustrates an example of a vehicle worksheet page **200b** that is similar to a worksheet for creating a record for a new vehicle to be added to the list **201**. The vehicle worksheet **200b** includes a data input section **214** having a number of links **215** for inputting data regarding a specific vehicle. The links **215** can also include optional links for modifying the vehicle configuration, modifying a condition report on the vehicle, selecting pictures for the vehicle, and releasing the vehicle for the auction. Figs 2D and

2E illustrate a condition report page **200d** that identifies the specific data in the

database of the auction server system for a vehicle and provides a plurality of additional

fields for inputting data regarding the condition of the vehicle.  The condition report **200d**

can also include a button **223** for adding the data in the fields **218-220** to a data-record

for the vehicle.  When the seller actuates the button **223**, the seller system sends the

data entered in the fields **218-220** to a database in the auction server system (e.g., a

temporary file database).  The invention validates the data entered by the seller,

establishing a standardized nomenclature for the data, and provides pricing from

different valuation services (Boyden: paragraph 0038).

## *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

**Berent (U.S. Patent No. 6,006,201) in view of Boyden (U.S. Patent Application**

**Publication No. 2003/0036964 A1).**

Referring to claim 1. Berent discloses a method for the resale of vehicles

comprising the steps of:

- Downloading auction data for a plurality of auctions from a third party database (Berent: column 6, lines 27-42, "As described on FIG. 2A, the Sale Calendar application allows the user to view and print sale (motor vehicle auction) dates and sale locations. The inventory to be sold at each listed motor vehicle auction is also available through this application, including a brief description of the vehicles and equipment information for each of the vehicles.");

- Storing said downloaded auction data in a system server, said auction data corresponding to a schedule of auctions for resale of vehicles (Berent: column 6, lines 27-42, "Sale Calendar");

- Providing access to said system server by way of a network (Berent: Fig. 1);

- Allowing a user to access said system server to consign a vehicle to one of said plurality of auctions (Berent: column 11, lines 24-31, "Dealer Direct"); and

- Notifying said one auction of said vehicle consigned to said one auction by way

  of said network (Berent: column 11, lines 38-49 and Fig. 1).

Berent does not expressly disclose providing access to said system server by

way of <u>a web site</u>. Boyden discloses providing access to a system server by way of a

web site (Boyden: Fig. 1, "Internet"). At the time the invention was made, it would have

been obvious to a person of ordinary skill in the art to have modified the system of

Berent to have included the teachings of Boyden in order to conduct electronic

commerce utilizing a standardized networking technique for exchanging information

(Boyden: paragraph 0004).


<u>Referring to claim 2</u>. Berent further discloses a method comprising the step of

inputting vehicle information about said vehicle (Berent: column 11, lines 25-31). Berent

does not expressly disclose the steps of <u>the system server</u> determining an adjusted

floor price for said vehicle based upon said vehicle information; and transmitting said

adjusted floor price to said auction. Berent teaches that a minimum sale price (the

"Floor Price") is established by the client prior to the vehicle being offered for sale.

Boyden discloses the steps of <u>the system server</u> determining an adjusted floor

price for said vehicle based upon said vehicle information (Berent: paragraph 0031 to

paragraph 0034 and paragraph 0038); and transmitting said adjusted floor price to said

auction (Berent: paragraph 0031 to paragraph 0034 and paragraph 0038). At the time

the invention was made, it would have been obvious to a person of ordinary skill in the

art to have modified the system of Berent to have included the teachings of Boyden in

order to accurately access the value for presenting used vehicles for sale at an

electronic auction (Boyden: paragraph 0002).


    <u>Referring to claim 3</u>. Berent in view of Boyden discloses a method according to

claim 2 as indicated supra. Berent further discloses a method wherein said vehicle

information includes a vehicle identifier corresponding to the vehicle to be consigned

(Berent: Fig. 10, "Define Search Criteria – Allows selections by YR, make, model,

mileage, <u>VIN</u>, location, title state, cite, client unit number").

    Boyden discloses a method comprising the steps of:

- Said server utilizing said vehicle identifier to gather vehicle information regarding

  said vehicle at time of manufacture to determine a minimum value (Boyden: Fig.

  2A "VIN");

- Said server prompting said user to add status information corresponding to

  changes in status of said vehicle since manufacture of said vehicle (Boyden: Fig.

  2d, "Frame Damage" and "Odometer Tampered");

- Said server calculating an adjusted floor price for said vehicle at auction based

  upon said vehicle information and said change in status information (Boyden:

  paragraph 0031 to paragraph 0034 and paragraph 0038);

- Forwarding said adjusted floor price to said auction when submitting

  consignment of said vehicle (Boyden: paragraph 0031 to paragraph 0034 and

  paragraph 0038).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Berent to have included the teachings of Boyden in order to accurately access the value for presenting used vehicles for sale at an electronic auction (Boyden: paragraph 0002).

Referring to claim 4. Berent further discloses a method wherein said vehicle identifier is a Vehicle Identification Number (Berent: Fig. 10, "Define Search Criteria – Allows selections by YR, make, model, mileage, VIN, location, title state, cite, client unit number").

Referring to claim 5. Berent further discloses a method further comprising the step of mapping said Vehicle Identification Number to a Universal Vehicle Code to obtain the vehicle information (Berent: Fig. 7B).

Referring to claim 6. Berent in view of Boyden discloses a method according to claim 3 as indicated supra. Boyden further discloses a method wherein said status information includes a vehicle mileage (Boyden: FIG 2C).

Referring to claim 7. Berent in view of Boyden discloses a method according to claim 3 as indicated supra. Boyden further discloses a method wherein said status information includes a repair history of the vehicle (Boyden: FIG 2D, "Damages").

Referring to claim 8. Berent in view of Boyden discloses a method according to claim 3 as indicated supra. Boyden further discloses a method wherein said status information includes upgraded information corresponding to accessories added to the vehicle since manufacture (Boyden: FIG 2D, "Comments").

Referring to claim 9. Berent further discloses a method comprising the step of notifying a transportation facility for transporting said consigned vehicle to said selected auction in response to receipt of the submission of consignment of the vehicle at the web site (Berent: column 9, lines 24-28).

Referring to claim 10. Berent further discloses a method comprising the step of auctioning the vehicle (Berent: column 9, lines 24-35).

Referring to claim 11. Berent further discloses a method comprising the step of said auction providing an auction result to said server and said server storing said auction result and providing access to said auction result by displaying a results report via a network (Berent: column 10, lines 40-54). Berent does not expressly disclose providing an auction result at a web site. Boyden discloses providing an auction result at a web site (Boyden: Fig. 3j). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Berent to have included the teachings of Boyden in order to conduct electronic commerce utilizing

a standardized networking technique for exchanging information (Boyden: paragraph

0004).


Referring to claim 12. Berent in view of Boyden discloses a method according to

claim 3 as indicated supra. Boyden further discloses a method wherein said server

calculates said minimum value utilizing black book data (Boyden: paragraph 0038).


Referring to claim 13. Berent in view of Boyden discloses a method according to

claim 12 as indicated supra. Boyden further discloses a method wherein said black

book data is obtained by said server from a third party data source (Boyden: paragraph

0038).


Referring to claim 14. Berent further discloses a method wherein said auction

data is periodically updated (Berent: column 9, line 56 to column 10, line 8).


Referring to claim 15. Berent in view of Boyden discloses a method according to

claim 12 as indicated supra. Boyden further discloses a method wherein said black

book data is periodically updated (at least Boyden: FIG 3D, "Central May-June 2000").


Referring to claim 16. Berent further discloses a method wherein said results

includes the price at which the consigned vehicle was sold (Berent: column 10, lines 40-

54).

Referring to claim 17. Berent further discloses a method comprising the step of

providing access to a dealer report via a network (Berent: column 1, lines 56-67).

Berent does not expressly disclose providing access to a dealer report at <u>a web site</u>.

Boyden discloses providing access to a dealer report at a web site (Boyden: paragraph

0031j). At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art to have modified the system of Berent to have included the

teachings of Boyden in order to conduct electronic commerce utilizing a standardized

networking technique for exchanging information (Boyden: paragraph 0004).


Referring to claim 18. Berent further discloses a method comprising the step of

producing a dealer result report wherein said dealer result report provides vehicle

information and auction results for each vehicle consigned by said dealer (Berent:

column 1, lines 56-67).


Referring to claims 19-25. Claims 19-25 are rejected under the same rationale

as set forth above in clams 1-18.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

MSG
Primary Examiner
May 2, 2006